

✓ Present

App. F. IX-4

1933 .
(Muzrai)

File No. 291-33

Previous References

By 134 30

Serial Nos. 1 2

Later References

General and Revenue Secretariat.

Serial Nos. 2

Part B for July 34

SUBJECT.

~~Treatment~~ treatment of Sareari
lands at Thalava Ma. (Sagar sk) as
temple property

To the Muz. Com
No 96 of 23.7 34

Approves the muz Coms recommendation

attachment of Sirkari lands at Thalabata (Sagar The)
as Temple property.

General and Revenue
Secretariat

File No.

231 of 1933.

[App. F. III-2

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No.

Letter no C1010/33-34 d 23.2.1934
From the Mungai Comm
forwards the records connected with
the question of treatment of Sirkari lands
at Thalabata in the name of Sri Bellare
Shambhalingadabata temple in Sagar
Taluk, and requests for ruling in the
matter.

The circumstances of the case are
explained in Shimoga Deputy Commr's letter
dated the 23.1.1934. For reasons stated
by the M.C. the view taken by him that
the directions contained in Govt letter of the
8th September 1930 do not seem to
apply to the present case, seems to be
correct. Subd for order.

12/3

2/ Please see who the
khatedars were who gave the
Vargu Vargi and how the present
holders are related to them or
derive their title. 23/3

3/ Kind reference is invited to para 3 of the
Shimoga D. C. Official Memorandum dated
9.5.1926, in which the points left to solve
have been raised and to the Amildar's report
furnishing the information required, and also to
the statement of Mr Ramachandiah, on 24.3.27
before the Amildar.

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Treatment of Pircan lands of Talavata Village as temple property.

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of 1933.

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6) From these, it will be seen that the lands in question, were originally in the Khate of Subba Bhatta Bin Ganapa Bhatta, and they were transferred to the name of Ganapa Bhatta Bin Subba Bhatta in May 1880 and were again transferred to the name of Sri Shambu Linga Devulu dicky in 1894-5, as per Valga Valgi pite 10139, which is said to have been destroyed. It is seen from the state ment of Mr. Ramachandrich, that at the time the actual transfer was effected to the name of the deity, the lands were in the Khate of Ganapathi Bhatta Bin Subba Bhatta, till 1894-95.

7) It is not quite clear from the records how the present holders are related to the previous registered Khatedars or how they derive their title to the lands in question. The present holders seem to have only possessory rights and not rights of ownership also, and in the circumstances it seems to be hard to discredit the transfer effected in 1894 to the name of the deity, unless they clearly establish their title to the full and absolute ownership of the lands.

8) Subd with reference to para 2 Super

14/47. Copy of Shumoga Dec 1894 of 23.1.34 to the MC (Hag P) used as enclosure to the Pund and was the fact of the case.

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8. It is seen herefrom that the temple of Sambuleni~~adamm~~ has two Nam lands and Kandayam lands in four villages. Of the latter, those in Talavatu Village measure 3 acres & 2 guntas in all assessed at Rs 17/ ^{originally}
9. These lands, the records show, were ~~given~~ in the khate of Subba Bhakta bini Ganappa Bhakta, and that in 1880 the khate was changed to Ganappa Bhakta bini Subba Bhakta. (Evidently the previous khatedars son). ~~He is Ganappa~~ ~~Subba Bhakta bini Subba Bhakta~~ As per Varga Vargi file no 139 of 94-95 the khate was transferred to the name of Sambuleni Devam and still continues in the name of the Deu.
10. The lands are however ^{now} in the possession of Ganesayya & Ramachendrayya who pay kandayam on them direct to Govt and are not paying anything to the temple. The D.C. is of opinion that there is a mere transfer of khate without possession of the lands and without any trust being created in favour of the temple. How far the view of the D.C. can be accepted as correct is for consideration. That the Varga Vargi was in order will be evident from the fact that the khatedar himself viz. Ganappa Bhakta has given the Varga Vargi. And he was fully competent to do so also. The lands having ^{thus} come to the possession of the temple, could not for obvious reasons

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be cultivated by the deis and the Khakhar who gave the Vargavargi has perhaps continued to cultivate the lands himself or through others on behalf of the temple paying *kandayam* to both and the present holders, who according to their own statements are young people of less than 30 years of age, are the sons or descendants of the previous holders. But this fact, by itself, cannot create in their favor any ^{right or} title to the lands adverse to the temple. The fact that they ^{are} *kandayam* lands in other villages owned to the temple is proof of the fact that there was the practice of transferring lands to the temple by Vargavargi and Talavathi lands belong to the same category. It is just possible that the present holders of Talavathi lands failed to pay anything to the temple in some bad years and have continued the practice even when good years came. The Khata being in the name of ~~the holder of~~ the deis for over 40 years the burden of proving that the lands belong to them and fall on the present holders. The position taken up by the DC seems to be just the reverse. It seems desirable that in cases of the kind Govt should insist on the lands being continued as ~~Govt~~ Temple property and collect from the holders ^{for the temple} such amount as it may consider reasonable to fix taking all the facts of the case into consideration.

Re treatment of Sir kari lands at Thalavata in
the name of Sri Sellane Sambulingadevaru Temple
in Sagar K.

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H. Perhaps the law Dept may also be
consulted in the matter.

27/4/34

Pl. Leary)

12) 28/4

Arth. Leary Law Dept
Ltr. Compt. No

28/4/34

*
(Sec 71 & 76 of the
A.R. Code)

The Karga Vargi in 1894-95 may have been
furniture. It may be that by such transfer, the
title to the lands also vested then in the deity.
Unless there is something to show that the present
persons in occupation are Trustees for & on behalf
of the deity, it is very difficult to get over the fact
that they have been in adverse possession for over
12 years. The mere fact that the Khate was made out
in the name of the deity & continues to be so even
and is not sufficient to prove that Ganeshia or
Rama Chennoria have only permissive possession
and not possession in their own right. The evidence
to prove permissive possession ~~might~~ ^{at least} might be some
acknowledgment of the right of the temple. It is
entirely wanting in this case.

We are therefore of opinion that the view
taken by the Rev. Court is right.

Forwarded with Compt. to the Govt Advocate
for opinion of concurrence ~~and~~ further remarks if any

A.O. No. 232932
dated 15/5/34.

374

NOTE—Contn. Sheet

WD 0434—GPB—15,000—12-10-33

180/foroslas

4/5/34

7. No. 881
15.5.34

of 193 .

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No.

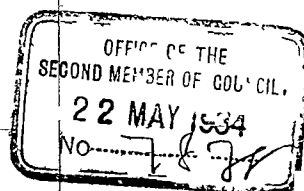
20.12.146/30
17.5.76

ASST Secy Genl Dr }
with compliments }

in view of the above legal opinion
the opinion of the Accounting Officer is ~~to be~~
that 2 of his units \$123.25 (P.U.) has
to be accepted.

2nd Mr)

21-5-34



20 Please bring up.
21) The DC wants a ruling in such cases. The M.L. seems to recommend his view in this case only. It is not clear if our appl. wd be used as a CL ruling. Each case must depend on its own merits; we cannot say that Varga can't without a deed of trust cannot transfer land without knowing the other circumstances. A draft may be put up on these lines the file brought up

SP
26/5

944
 Statement of Pirkani lands in Thalabatal
 as Temple property

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22) A draft reply to the M.C. is
 put up for consideration as directed
 in para 21 supra.

AS
 1/6.

Please see me
 12/6

Revised draft P.O.A. as in sheet
 14/6/34

Refer: Pams 20-21 supra
 Draft returned for
 approval. 88
 14/6/34

91 (Seng)

10/6.
 Draft returned for consideration
 as directed. 25/6

11 (member)

affd a report

1/12-
 13/7
 14/7

96 dated 23.7.34

The M.C. is alleged
 to be in violation of the rules indicated in
 para 21 of the noted supra

Return
 If member has
 not the file
 should be returned to person
 14/6

293
 1417



2

B₂ 4/7

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Secret

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No.

GENL. 88 8
25 JUL 1934
OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

Bangalore, ... 18th July 1934.

27

N. MADHAVA RAU, Esq., B.A., B.L.,

Muzrai Commissioner in Mysore,

Bangalore.

S. Shamanna, Esq., P.A.,

Secretary to the Government of His Highness

the Maharaja of Mysore,

F.i.n.a.n.c.i.a.l. Department

Why is it
not done
25/7

at
Subject:- Treatment of Sirkari lands/Talavata village
in the name of Sri Bellane Sambhulingadevaru
temple in Sagar Taluk.

I have the honor to invite kind reference to this office
letter No.1010/33-34 dated 23rd February 1934 on the above
subject, and to request the favour of early orders in the
matter.

I have the honor to be,

Sir,

Your most obedient servant,

N. Madhava Rau

Muzrai Commissioner.

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secretariat

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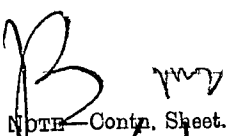

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Orders in the case were communicated
to him in this office letter dated 23.7.39.
No further action on this seems called for

BTS ^{mv}
25/7

25/7


NOTE—Contn. Sheet.

26/7

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General and
Secretariat

6 1010/33-34
File: 1 file
From

Office of the Muzrai Commissioner in Mysore,
Bangalore dated 22nd February 1934.
23

N. Madhava Rau, Esq., B.A., B.L.
Muzrai Commissioner in Mysore.

To

S. Shamanna, Esq., B.A.,
Secretary to the Government of Mysore,
Financial Department.

Sir,

Subject:- Re. the treatment of Sirkari lands at Thalavata in the
name of Sri Bellane Sambhulingadevaru temple in
Sagar Taluk.

In forwarding herewith copy of letter No.Muz.C.1747/30-31 dated 23rd
January 1934 from the Deputy Commissioner, Shimoga District, stating the
facts of the case and requesting a ruling as to the disposal of such cases
I have the honor to state that as seen from the records of enquiry the
Sirkari lands at Thalavata referred to in the Deputy Commissioner's letter
though nominally transferred by means of a Varga Vargi in 1894-95 to the
name of the deity, have all along been in possession of Ganesiah and Rama-
chendriah.

2. The Varga Vargi does not by itself show that the lands were actually
and validly dedicated to the temple. As they were not in possession and
enjoyment of the temple at any time they could not be said to be its proper
ty. In these circumstances the directions contained in your letter No.474/
Muz.449-28-2 dated 8-9-1930 do not ~~therefore~~ seem to apply to this case and
if Government approve of the view expressed above, I shall communicate the
same to the Deputy Commissioner.

I have the honor to be,
Sir,
Your most obedient servant,

N. Madhava Rau
Muzrai Commissioner.

Muz. 36.1747/30-31 dated 23-1-34 from the Deputy Commissioner,
 strict, to the Muzrai Commissioner in Mysore.

I have the honor to state that the temple of Sri Sambhulingadevaru at Bellane, Sagar Taluk, is endowed with a cash grant of Rs 14-8-0 per annum and two inam lands in the same village and it has got kandayam lands also in its khate. The details of the lands are noted in the margin.

I. Inam lands.						The two inam lands have	
Bellane village	S.No. 56	Gar.	1-21	Asst.	15-0-0	been leased out for a peri-	
		62	"	1- 2	" 13-0-0	od of 20 years from 1929-30	
				2-23	28-4-0		
				Jodi	18-4-0		
-----						for an annual rental of	
II. Sircar lands.						Rs 165/-. Three Sircar land	
1. Bellane village	S.No. 118	Gar.	0-18	Asst.	5- 8-0	S.Nos. 118, 120 and 121	
		120	"	0-29	" 6- 8-0		
		121	"	0-19	" 5- 8-0		
		122	"	1- 9	" 15- 0-0	left in the possession of	
			2-35	" 32- 8-0	the archak of the temple		

2. Talaguppa village	125	Dry	3-37	"	0-12-0	and S.No. 122 is permanently	
		Wet	13-12	"	35- 4-0	left with the paricharak	
			17- 9	"	36- 0-0		
-----						subject to his paying a	
3. Parathur village	47	Dry	0-10	"	41- 0-0	cash grant of Rs 10/- to the	
		Wet	14- 6	"	0- 4-0	temple. The income of 30	
		130	Dry	1-22	" 0- 4-0	candies of paddy from S.No.	
		Wet	5- 0	" 20-12-0	125 of Talaguppa village		
			20-38	" 62- 0-0	given to the pipers and		
-----						income of 30 candies of	
4. Talawata village	11	Gar.	0-27	"	2- 0-0	paddy from Parathur lands	
		Dry	0-16	"	0-12-0	utilised for expenses in	
		Wet	0-19	"	0- 4-0	the temple.	
		15	Gar.	0- 1	" 0- 4-0		
		17	Gar.	1- 1	" 13- 0-0		
			Dry	0- 4	"		
		22	Gar.	0- 1	" 0- 4-0		
24	Gar.	0- 8	" 0-12-0				
	Dry	0- 5	"				
			3- 2	" 17- 0-0			

Talawata lands are in the possession and enjoyment of Ganeshiah and Ramachandriah who pay kandayam on them direct to Government and do not pay anything to the temple. They have stated that the khate of these lands have been transferred by fraud to the name of the deity and they are not willing either to restore the lands or to give any migate to the temple. It is seen from the khetwar extracts produced by Ramachandriah that the khate of these lands was transferred to the name of the deity in the year 1894-95 by means of a Varga vargi. It is reported by the Amildar that the original varga-vargi records have been destroyed as time-barred. Besides this, the lands are in the possession and enjoyment of the above named persons all along and they pay kandayam direct to Government. There is thus a mere transfer of khate without possession of the lands and without any trust being created in them in favour of the temple.

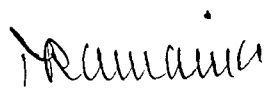
It is therefore not possible to say that the lands
ment to the institution and that their enjoyment by the two-persons
wrongful and constitutes an abuse of the trust. Instructions given in
the penultimate para 'wrongful alienations of private endowments of Muzrai
Institutions' of the Financial Secretary's letter No.474/Muz.449-28-2 da
8-9-1930 received with your Memo No.R.Dis.80/30-31 does not seem to apply
therefore to this case.

One or two cases in which lands have been transferred to the name of
the institutions by mere varga razinama without a deed creating any trust
and their subsequent alienations to others by instruments of conveyance by
the ~~xxx~~ heirs of the original vargadars have come up before me for orders.

I request therefore that a ruling as to the disposal of such cases may
be given so as to ensure uniformity in the method of disposal.

The file of records relating to the temple of Sri Sambhulingadevaru of
Bellane is submitted herewith for reference and return.

"COPY"


For Muzrai Commissioner.



13

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 20th July 1934.

No. 96 / May 29-33-2
with connected Records & etc

23rd

From

The ~~General~~ Secretary to the Government of His Highness
the Maharaja of Mysore.
Financial Department.

To

The Muzrai Commissioner in Mysore,

B a n g a l o r e.

Sir,

With reference to your letter No.C.1010/33-34 dated 23rd February 1934, forwarding copy of letter dated 23rd January 1934, from the Deputy Commissioner, Shimoga District, urging the facts of the case regarding the treatment of Sirkari lands at Thalavata in the name of Sri Bellane Sambhulingadevaru Temple in Gagar Taluk etc., I am directed to point out that the Deputy Commissioner wants a general ruling in respect of such cases so as to ensure uniformity in the method of disposal, while your recommendation is confined only to the particular case. Government accept your view in this particular case.

This decision is not intended to be a general one applicable to all cases. It cannot be laid down, as a general rule that vargavargi without a deed of Trust cannot transfer land whatever may be the other circumstances of the case and the decision in each case must depend on its merits.

I have the honour to be,

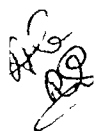
Sir,

Your most obedient servant,



Secretary to Government,
Financial Department





7th draft

96 / May 291-33-14

The Muzrai Commissioner in Mysore,

Enc me & me file

Sir, 8 23-7-34.

With reference to your letter No.C.
1010/33-34 dated 23rd February 1934 forwarding copy of letter dated 23rd January 1934 from the Deputy Commissioner, Shimoga District, urging the facts of the case regarding the treatment of Sirkari lands at Thalawata in the name of Sri Bellane Sambhulingadevaru temple in Sagar Taluk etc., I am directed to point out that the Deputy Commissioner wants a general ruling in respect of such cases so as to ensure uniformity in the method of disposal, while your recommendation is confined only to the particular case. ~~The view of Government is that~~ it cannot be laid down, as ^{the} as a general rule that vargavargi without a deed of Trust cannot transfer land whatever ^{may be} the other circumstances of the case and the decision in each case must depend on its merits. Such cases may be dealt with in accordance with this view.

I have etc.,

Financial Secretary to Govt.

25/6/34

[P]

GS
15/6

hks.

Govt- accept your view in this particular case. This decision is not intended to be a general one applicable to all cases.